

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

FLINT RIVERKEEPER, INC., et al.,

Plaintiffs,

v.

SOUTHERN MILLS, INC., d/b/a  
TENCATE PROTECTIVE FABRICS,

Defendant.

CIVIL ACTION NO. 5:16-CV-00435

**JANUARY 16, 2017 JOINT STATUS REPORT**

Pursuant to this Court's October 12, 2017 Order Granting Joint Motion to Stay Case, Plaintiffs Flint Riverkeeper, Inc., Jere M. Cox, Shelby Cox Moore, Granville C. Moore, and Sean P. Draime (collectively the "Plaintiffs") and Defendant Southern Mills, Inc. d/b/a TenCate Protective Fabrics, ("TenCate") jointly submit this status report regarding the Parties' good faith efforts to pursue a comprehensive resolution of this dispute. The Parties provide the following Joint Status Report:

1. As reported in the December 15, 2017 Joint Status Report [ECF No. 46], on December 5, 2018, Phil Freshley (Plaintiffs' soil scientist and Land Application System ("LAS") expert) and David Huff (TenCate's soil scientist and LAS expert) performed the first round of initial baseline infiltrometer/soil permeability testing at the TenCate spray fields. On January 2, 2018, the parties exchanged the results of the infiltrometer/soil permeability testing. Currently, TenCate is installing a gypsum injection system to improve the quality, i.e., infiltration/wastewater assimilative capacity, of the spray fields. TenCate anticipates completing the gypsum injection system in mid to late February. Freshley and Huff plan to conduct a second infiltrometer/soil

permeability sampling event at the TenCate facility in April to assess the initial effects of the gypsum injection system on the spray fields.

2. Also as reported in the December 15, 2017 Joint Status Report, on December 7, 2017 the Parties collected influent and effluent wastewater samples as the initial steps of a wastewater treatability study. In late December, the Parties received and exchanged their wastewater sampling results. Plaintiffs' LAS expert Phil Freshley and wastewater expert Randy Grachek and TenCate's wastewater expert Monique Latalladi have conducted preliminary analyses of the wastewater sampling data.

3. In late December, the Parties agreed on a method for evaluating the influent and effluent wastewater samples collected by both parties during the first week of December for "dye waste" constituents. Both Parties still are awaiting their "dye waste" constituent sampling results. The Parties expect to receive these results in the next one to four weeks.

4. On January 2, 2018, TenCate provided Plaintiffs with a report regarding TenCate's association with per-fluorinated textile finishing compounds. On January 4, 2018, Plaintiffs provided TenCate with questions on the report from their textile dyeing and finishing expert Dr. Richard Blackburn. TenCate has begun work on responding to Plaintiffs' questions.

5. On January 3, 2018, counsel for Plaintiffs and TenCate met at Troutman Sanders LLP's offices. Plaintiffs' wastewater expert, Randy Grachek, TenCate's wastewater expert, Monique Latalladi, and TenCate's LAS expert, David Huff, also attended the meeting. The following individuals attended by phone: Plaintiffs' LAS expert, Phil Freshley; Plaintiffs' textile dyeing and finishing expert, Richard Blackburn; the Flint Riverkeeper, Gordon Rodgers; TenCate's wastewater expert, Bill Malyk; and TenCate's corporate counsel, Brad Reynolds. The Parties discussed their initial impressions of the infiltrometer/soil permeability testing and

wastewater influent/effluent testing. The Parties and experts agreed that the Parties have sufficient sampling data to begin the design of potential technical improvements to TenCate's wastewater management system. Additionally, the Parties and experts agreed that the next step towards a potential technical improvement are discussions between the LAS experts Freshley and Huff regarding the organic loading and wastewater assimilative/treatment capacity of the spray fields. It was anticipated that Freshley and Huff would report back on their discussions by January 15, 2018. Freshley and Huff have begun such discussions as described below.

6. Also at the January 3, 2018 meeting, after the Parties' experts were dismissed, counsel for Plaintiffs and TenCate discussed the damages claims of the individual Plaintiffs. Both Parties have obtained appraisal reports on Plaintiffs' properties and plan to exchange the results of the appraisals on January 17, 2018. During the January 3, 2018 meeting, Plaintiffs' counsel agreed to provide TenCate's counsel with an updated estimate of their incurred attorneys' fees, expert expenses, and costs to aid in future settlement negotiations. Plaintiffs' counsel has provided such an updated rough estimate to TenCate's counsel and has begun work on providing TenCate's counsel with a more detailed updated estimate.

7. On January 4, 2018, Huff provided Freshley with a technical memorandum regarding the organic loading capacity of the LAS. During the week of January 8, 2018, Freshley and Huff spoke regarding the current level of treatment of organic loads and other constituents by the spray fields based on their interpretations of the infiltration/assimilative capacity of the fields and the wastewater, surface water, and groundwater data collected since August. On January 12, 2018, Freshley sent Huff and Latalladi a joint technical memorandum from Freshley and Grachek with their opinions on the assimilative/treatment capacity of the spray fields, the data collected

since August, and preliminary options for proposed technical improvements to TenCate's wastewater management system.

8. The Parties anticipate addressing the following tasks before the next Joint Status report: the Parties hope to receive the results from the dye waste sampling. When these results are received, the Parties will exchange, review and analyze this data. The Parties also anticipate that the LAS and wastewater experts will begin detailed joint discussions on the specific design of potential technical improvements to TenCate's wastewater management system. TenCate will provide Plaintiffs a response to their questions concerning TenCate's association with per-fluorinated textile finishing compounds. The Parties will exchange appraisal results and Plaintiffs will provide TenCate with additional information regarding their updated estimate of their incurred attorneys' fees and expenses to aid in settlement negotiations. The next meeting is planned for January 25, 2018 at the offices of the Southern Environmental Law Center, where the parties plan to discuss the experts' detailed review of the data collected since August and the progress of their technical discussions, including proposed technical improvements to TenCate's wastewater management system.

WHEREFORE the Parties jointly submit this status report as required by the Court's October 12, 2017 Order and note that these disclosures are in the nature of compromise communications and remain inadmissible by any party for any purpose other than as directed by the Court.

*/s/ Justin T. Wong*

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Justin Wong  
Southern Mills, Inc. d/b/a TenCate  
Protective Fabrics

*/s/ Donald D.J. Stack*

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Donald D. J. Stack  
Flint Riverkeeper, Inc., Jere Michael  
Cox, Shelby Cox Moore, Granville Cliff  
Moore, and Sean P. Draime

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/s/ R. Hutton Brown

R. Hutton Brown  
Flint Riverkeeper, Inc.

Dated: January 16, 2018

Respectfully submitted,

TROUTMAN SANDERS LLP

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/s/ Justin T. Wong

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 16, 2017, the counsel indicated below were served by filing through the Court's CM/ECF electronic filing system:

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